

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ALTARIQ WALI ROBINSON,)	
)	CASE NO.
Plaintiff,)	
)	
versus)	
)	DEMAND FOR JURY TRIAL
SANTANDER CONSUMER USA INC.)	
)	
Defendant.)	
_____)	

COMPLAINT FOR DAMAGES

COMES NOW the Plaintiff Altariq Wali Robinson, by and through counsel and hereby files his Complaint against Santander Consumer USA Inc., Defendant showing the Court as follows:

I. INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. (hereinafter "FDCPA") which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices and for Defendant's violation of the automatic stay under the Bankruptcy Code 11 U.S.C. §362.

II. JURISDICTION AND VENUE

2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d), 28 U.S.C. § 1337. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202. Venue in this District is proper in that the defendant transacts business here and the conduct complained of occurred here.

III. PARTIES

3. Plaintiff, Altariq Wali Robinson, is a natural person residing in DeKalb County, Georgia.

4. Defendant, Santander Consumer USA Inc, is a corporation engaged in the business of collecting debts in this state with its principal place of business located at 8585 N. Stemmons Frwy Ste 1100-n, Dallas, TX 75247. The Defendant can be served through its Registered Agent CT Corporation System at 1201 Peachtree St NE, Atlanta, GA 30361. The principal purpose of Defendant is the collection of debts using the mails and telephone, and Defendant regularly attempts to collect debts alleged to be due another.

5. Defendant is a "debt collector" as defined by the FDCPA, 15 U.S.C. § 1692a(6).

IV. FACTUAL ALLEGATIONS

6. On or about March 30, 2010, undersigned counsel filed a Chapter 13 petition for bankruptcy for Plaintiff in the

Northern District of Georgia, Atlanta Division and assigned case number 10-69128. (Exhibit A)

7. Plaintiff filed a petition and schedules with the bankruptcy court which listed on Scheduled F a debt owed to CitiFinancial Auto Corporation for an automobile deficiency of \$14,503.97. (Exhibit B)

8. Plaintiff voluntarily surrendered the car to Citifinancial Auto Corporation in 2007.

9. On March 30, 2006, Citifinancial Auto filed a Proof of Claim for an unsecured deficiency balance for \$21,865.93. (Exhibit C)

10. On September 6, 2010, Defendant sent a demand letter to Plaintiff stating that Defendant was now servicing this account and providing Plaintiff with a new account number. (Exhibit D)

11. At the time Defendant mailed the demand letter Plaintiff was no longer in possession of the collateral which secured the underlying debt.

12. At the time Defendant mailed the demand letter Plaintiff was delinquent on the account.

13. Defendant's demand letter states that Plaintiff will soon begin receiving new monthly account statements from Defendant that contains instructions for submitting payment.

14. Defendant's letter also states that the balance remaining is \$10,671.13.

15. As a result of the acts alleged above, Plaintiff has suffered anxiety and stress due to this unjust demand for payment on a debt that was included in his bankruptcy and has had to take time off from work and incurred expenses to meet with counsel to resolve this matter.

V. FIRST CLAIM FOR RELIEF

(Violation Fair Debt Collection Practices Act)

16. Plaintiff repeats and realleges and incorporates by reference paragraphs one through fifteen above.

17. Defendant violated the FDCPA. Defendant's violations include, but are not limited to, the following:

- (a) Defendant violated 15 U.S.C. 1692b(6) by contacting the Plaintiff after knowing the Plaintiff was represented by an attorney;
- (b) Defendant violated 15 U.S.C. 1692(e)(5) by threatening action that cannot legally be taken or that is not intended to be taken.

18. As a result of the above violations of the FDCPA, the Defendant is liable to the Plaintiff for declaratory judgment that Defendant's conduct violated the FDCPA, and Plaintiff's actual damages, statutory damages, and costs and attorney fees.

VI. SECOND CLAIM FOR RELIEF

(VIOLATION OF THE AUTOMATIC STAY)

19. Plaintiff repeats and realleges and incorporates by reference paragraphs one through eighteen above.

20. The actions of the Defendants in causing the improper demands for payment to be sent to the debtors and in the repeated telephone contacts, constitute a gross violation of the automatic stay as set forth in 11 U.S.C. Section 362(a)(3).

21. As a result of the above violations of 11 U.S.C. Section 362, the Defendant is liable to Plaintiff for actual damages, punitive damages and legal fees.

WHEREFORE, Plaintiff having set forth his claims for relief against the Defendant respectfully prays of the Court as follows:

- A. That the Plaintiff have and recover against the Defendant a sum to be determined by the Court in the form of actual damages;
- B. That the Plaintiff have and recover against the Defendant a sum to be determined by the Court in the form of statutory damages;
- C. That the Plaintiff have and recover against the Defendant a sum to be determined by the Court in the form of punitive damages;

- D. That the Plaintiff have and recover against the Defendant all reasonable legal fees and expenses incurred by their attorney;
- E. That this Court order the Defendant to pay additional actual damages and statutory damages in a sum to be determined by the Court for violating the FDCPA pursuant to 15 U.S.C. Section 1692k;
- F. That the Plaintiffs have such other and further relief as the Court may deem just and proper.

Respectfully submitted this 24th day of January 2011.

/s/
S. Ryan Starks
Attorney Bar Number: 676512
Attorney for Plaintiff
Berry & Associates
2751 Buford Hwy
Suite 400
Atlanta, Georgia 30324
(404) 235-3300
rstarks@mattberry.com

B9I (Official Form 9I) (Chapter 13 Case) (12/07)

Case Number 10-69128-crm

UNITED STATES BANKRUPTCY COURT Northern District of Georgia

Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors, & Deadlines

The debtor(s) listed below filed a chapter 13 bankruptcy case on 3/30/10.

You may be a creditor of the debtor. **This notice lists important deadlines.** You may want to consult an attorney to protect your rights. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below. NOTE: The staff of the bankruptcy clerk's office cannot give legal advice.

See Reverse Side For Important Explanations

Debtor(s) (name(s) used by the debtor(s) in the last 8 years, including married, maiden, trade, and address):

Altariq Wali Robinson
2403 Azalea Garden Drive
Dunwoody, GA 30338

Case Number: 10-69128-crm
Judge: C. Ray Mullins

Social Security/Taxpayer ID/Employer ID/Other Nos.:
xxx-xx-4673

The entire case number, including judge initials, is required on all papers filed with the court.

Attorney for Debtor(s) (name and address):

Jared Rogers Wright
Berry & Associates
Suite 400
2751 Buford Highway
Atlanta, GA 30324
Telephone number: (404) 235-3300

Bankruptcy Trustee (name and address):

Nancy J. Whaley
Nancy J. Whaley, 13 Trustee
Suite 120
303 Peachtree Center Avenue
Atlanta, GA 30303
Telephone number: (678) 992-1201

Meeting of Creditors

Date: May 10, 2010

Time: 09:00 AM

Location: Third Floor – Room 366, Russell Federal Building, 75 Spring Street, SW, Atlanta, GA 30303

NOTICE TO DEBTOR(S): Individuals who file bankruptcy must bring two forms of original documentation to their meeting of creditors: photo identification (driver's license, government ID, state photo ID, student ID, U.S. passport, military ID, or resident alien card) and confirmation of their social security number. **Additionally, you must provide the trustee whose name appears above with a copy of your most recently filed income tax return. This should be provided at least 7 days before the meeting of creditors. DO NOT FILE YOUR TAX RETURN WITH THE COURT.** Please bring a copy of this notice with you to the Meeting of Creditors. Cellular phones and other devices with cameras will NOT be allowed beyond security checkpoints.

Deadlines:

Papers must be *received* by the bankruptcy clerk's office by the following deadlines:

Deadline to File a Proof of Claim:

For all creditors (except a governmental unit): 8/9/10

For a governmental unit (except as otherwise provided in Fed. R. Bankr. P. 3002 (c)(1)): 9/27/10

Creditor with a Foreign Address:

A creditor to whom this notice is sent at a foreign address should read the information under "Claims" on the reverse side.

Deadline to File a Complaint to Determine Dischargeability of Certain Debts: 7/9/10

Deadline to Object to Exemptions:

Thirty (30) days after the *conclusion* of the meeting of creditors.

Filing of Plan, Hearing on Confirmation of Plan

The plan, if not included with this notice, will be mailed to you when filed.

The hearing on confirmation will be held: Date: 6/22/10, Time: 01:30 PM, Location: Courtroom 1203, Russell Federal Building, 75 Spring Street SW, Atlanta, GA 30303

Creditors May Not Take Certain Actions:

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor, the debtor's property, and certain codebtors. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

Address of the Bankruptcy Clerk's Office:

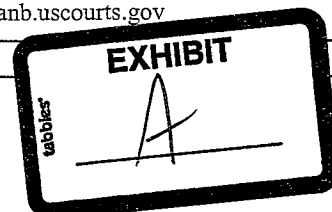
1340 Russell Federal Building
75 Spring Street, SW
Atlanta, GA 30303
Telephone number: 404-215-1000

For the Court:

Clerk of the Bankruptcy Court:
M. Regina Thomas
See our website: www.ganb.uscourts.gov

Hours Open: Monday – Friday 8:00 AM – 4:00 PM

Date: 3/31/10

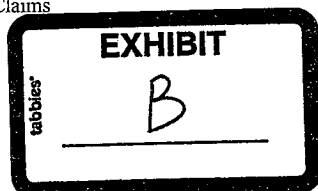


Case 10-69128-crm Doc 1 Filed 03/30/10 Entered 03/30/10 14:00:29 Desc Main Document Page 16 of 55

B6F (Official Form 6F) (12/07) - Cont.

In re Altariq Wali Robinson,
DebtorCase No. _____
(If known)**SCHEDULE F- CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS**
(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBETOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF,	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
ACCOUNT NO. 053430725 Carmen V. Porreca 4901 Olde Towne Parkway Marietta, GA 30068		Consideration: Account Medical				1,174.00
ACCOUNT NO. 1005678808 Chevron Credit Bank Na Po Box 5010 Sec 230 Concord, CA 94524		Consideration: Credit card debt 1. Closed by Grantor 2. COLLECTION				776.00
ACCOUNT NO. 3276741001 Citi Auto 2208 Highway 121 Ste 100 Bedford, TX 76021		Consideration: Auto deficiency 1. DELINQUENT				14,503.97
ACCOUNT NO. 6269 Citifinancial Auto Credit PO Box 182287 Columbus, OH 43218		Consideration: Account				Notice Only
ACCOUNT NO. 0001 Citifinancial Auto Credit Inc 2208 Hwy121, Ste 100 Bedford, TX 76021						Notice Only
Subtotal						\$ 16,453.97
Total						\$

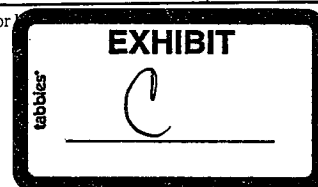
Sheet no. 1 of 12 continuation sheets attached
to Schedule of Creditors Holding Unsecured
Nonpriority Claims(Use only on last page of the completed Schedule F.)
(Report also on Summary of Schedules and, if applicable, on the
Statistical Summary of Certain Liabilities and Related Data.)

Case 10-69128-crm Claim 1 Filed 04/02/10 Desc Main Document Page 1 of 1

B10 (Official Form 10) (12/07)

UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF GEORGIA		PROOF OF CLAIM
Name of Debtor: ALTARIQ ROBINSON		Case Number: 10-69128
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (The person or other entity to whom the debtor owes money or property): CitiFinancial Auto Corporation		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim. Court Claim Number: _____ <i>(If Known)</i> Filed on: _____
Name and addresses where notices should be sent: CitiFinancial Auto Corporation P.O. Box 9578 Coppell, TX 75019-9578 Telephone No. (800) 963-9813		
Name and addresses where payment should be sent (if different from above): CitiFinancial Auto Corporation P.O. Box 182287 Columbus, OH 43218 Telephone No. (800) 963-9813		<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check box if you are the debtor or trustee in this case
1. Amount of Claim as of Date Case Filed: <u>\$21,865.93 + 27.99% interest</u> <div style="text-align: right; font-size: small;">***Claimant reserves right to amend claim</div> <p style="font-size: small;">If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.</p> <p style="font-size: small;">If all or part of your claim is entitled to priority, complete item 5.</p> <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.		5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount. Specify the priority of the claim. <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507 (a)(4). <input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507 (a)(5). <input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8). <input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507 (a)(). Amount entitled to priority: \$ _____ <small>*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</small>
2. Basis for Claim: <u>Money Loaned</u> <small>(See instruction #2 on reverse side.)</small>		
3. Last four digits of any number by which creditor identifies debtor: <u>xxxxx1001 / 354134</u> 3a. Debtor may have scheduled account as: _____ <small>(See instruction #3s on reverse side.)</small>		
4. Secured Claim: <small>(See instruction #4 on reverse side.)</small> Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: Value of Property: <u>\$0.00</u> Annual Interest Rate: _____ Amount of arrearage and other charges at time case filed included in secured claim, if any: _____ Basis for perfection: _____ Amount of Secured Claim: <u>\$0.00</u> Amount Unsecured: <u>\$21,865.93</u>		
6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim. 7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. <i>(See definition of "redacted" on reverse side.)</i> DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain:		
Date April 02, 2010 Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any. <div style="text-align: right;">/s/ Jackie Allison Bankruptcy Specialist</div>		For Court Use Only

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or

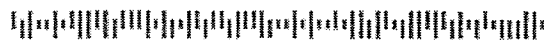




citi financial[™]
auto

9/6/2010

ALTARIQ ROBINSON
2403 AZALEA GARDEN DR
DUNWOODY, GA 30338-7914



Original Financed Amount \$16,894.38

Balance Remaining* \$10,671.13

Maturity Date 7/25/2012

Dear Altariq Robinson,

CURRENT CitiFinancial Auto Account Number - 3276741001

NEW Santander Consumer USA Account Number - 3281379

CitiFinancial Auto recently entered into an agreement that allows Santander Consumer USA Inc. to serve as a third-party servicer for part of its auto loan/retail installment contract portfolio. As part of this transaction your auto loan/retail installment contract is still owned by CitiFinancial Auto but will be serviced by Santander Consumer USA effective 9/6/10.

This service transfer does not affect the current terms of your auto finance contract. Please note that your new account number with Santander Consumer USA is 3281379.

- » If you currently pay your monthly bill using online banking or other bill pay service (ACH or debit card recurring), your regularly scheduled automatic payments will continue without interruption, although the receiving bank notation on your receipt will change to Santander Consumer USA.
- » If you have verbally authorized CitiFinancial Auto to pay your loan/retail installment contract by check drawn on your bank account (the "CheckDraft" process), such authorization will cease to be valid on 10/3/10. Customers using CheckDraft will receive information from Santander Consumer USA about how to enroll in our Auto Pay program.
- » If you do not currently utilize automatic bank draft to make your monthly payment, you will soon receive a new monthly account statement from Santander Consumer USA that contains instructions for submitting your payment. You may also securely view, manage and make payments for your account online by enrolling in the MyAccount area of SantanderConsumerUSA.com. You will need a valid e-mail address and your social security number to establish an online account. The MyAccount area of the Web site also allows you to sign up for online statements if you prefer to receive your monthly account summary via e-mail.

Beginning 9/6/10, please direct all correspondence and payments concerning your account to Santander Consumer USA.

Correspondence

(For non-payment correspondence only)

Santander Consumer USA Inc.
P.O. Box 961245

Payments

See the information below regarding payment options, or sign up to pay online in the My Account area of SantanderConsumerUSA.com

Online & Phone

Manage your account anytime in the My Account area of SantanderConsumerUSA.com
Call toll-free at 1.888.222.4227

If You Make Payments Through...	After Conversion	Customer Action Required
Mail	Payments will still be accepted by mail. Your monthly statement will also include instructions for making payments via overnight mail.	Santander Consumer USA will send a monthly statement to customers who do not use any type of automatic payment to pay on their auto loan account. If you do not have a statement coupon use the return envelope. The address for standard mail payments is: Santander Consumer USA Inc. P.O. Box 660633 Dallas, TX 75266-0633
Telephone	Payments will still be accepted by telephone.	To make a payment by telephone, call toll-free 888.222.4227 and have your account number and method of payment (checking/savings account numbers and bank routing information, or credit/debit card information) ready when you call. You will also need to provide the primary customer's date of birth. There may be a fee for this service.
Online Bill Payment Service	Payments made using online banking or other bill payment service will continue to be accepted. Customers using CheckDraft will have payments deducted through 10/3/2010.	You will need to update the Payee to "Santander Consumer USA" and your loan account number so that your payment is credited properly. CheckDraft customers may enroll in Santander Consumer USA's Auto Pay program. Enrollment information will be mailed to CheckDraft customers in separate correspondence.
Online Payment via CitiFinancial Auto Web site	You will be able to log on and make payments using Santander Consumer USA's system, located in the My Account area of www.SantanderConsumerUSA.com .	You will need to access Santander Consumer USA's online payment page in the My Account Area of www.SantanderConsumerUSA.com . Most users will be able to login to the system using the same credentials they used for CitiFinancial Auto's Web site. Please note that some users may be required to re-register before they can use Santander's system.
Western Union or MoneyGram	Your payments will continue to be accepted.	If paying using Western Union you will need to present a new City Code at the time you make your payment. Santander Consumer USA's City Code for Western Union is "PITSTOP" with the State Code "TX." If paying using MoneyGram you will need to present a new Receive Code. Santander Consumer USA's Receive Code for MoneyGram is "1544." Fees apply for both services.
Military Allotment	Your payments will continue to be accepted.	No action on your part is required.

ABOUT SANTANDER CONSUMER USA

Santander Consumer USA is a leading automotive finance company that also provides third-party loan servicing for clients worldwide. Santander Consumer USA is owned by Banco Santander (NYSE: STD), a 150-year-old global bank with more than 14,000 branches and 90 million customers worldwide.

If you have questions regarding this service transition or Santander Consumer USA, we encourage you to visit **www.SantanderConsumerUSA.com** to receive...

- » Information about the servicing of your auto finance account by Santander Consumer USA
- » The ability to sign up for online statements
- » Opportunities to subscribe to e-mail and text message reminders for your monthly payment
- » The ability to securely online chat with a customer service representative
- » Information about Santander Consumer USA Inc.

You may also call Santander Consumer USA toll-free at 1.888.222.4227. We are working diligently to ensure that this service transfer is as seamless as possible. We appreciate your continued business, and are happy to assist you with all your auto loan needs.

Sincerely,
Santander Consumer USA Inc.

EXHIBIT

D

IMPORTANT NOTICE ABOUT YOUR RIGHTS

This is an attempt to collect a debt and any information obtained will be used for that purpose. This communication is from a debt collector.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, we will assume this debt is valid. If you notify us in writing within 30 days from receiving this notice, we will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such verification or judgment. If you request from us in writing within 30 days after receiving this notice, we will provide you with the name and address of the original creditor, if different from the current creditor.

If you choose to exercise your validation rights,

If you have recently filed a bankruptcy proceeding, please be aware that this letter is for informational purposes only. Forward a copy of this letter to your legal counsel and/or trustee, as appropriate, and refer them to a Santander Consumer USA Inc. representative at 888.222.4227.

REQUIRED STATE NOTICES

CALIFORNIA

The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work

MAINE

Hours of operation: 7 a.m. to 9 p.m. Central Time, Monday through Friday. Our toll free telephone number is 1.888.222.4227.

MASSACHUSETTS

Hours of operation: 7 a.m. to 9 p.m. Central Time, Monday through Friday. Our toll-free telephone number is 1.888.222.4227.

Notice of Important Rights - You have the right to make a written or oral request that telephone calls regarding your debt not be made to you at your place of employment. Any such oral request will be valid for only ten (10) days unless you provide written confirmation of the request postmarked or delivered within seven (7) days of such request. You may terminate this request by writing to